

# KING & SPALDING

King & Spalding LLP  
1185 Avenue of the Americas, 34th Floor  
New York, NY 10036-4003  
Tel: +1 212 556 2100  
Fax: +1 212 556 2222  
www.kslaw.com

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**VIA ECF**

Hon. Leo M. Gordon  
United States District Court  
District of New Jersey  
2 Federal Square  
Newark, NJ 07102

Randy M. Mastro  
Partner  
Direct Dial: +1 212 827 4019  
RMastro@kslaw.com

**Re: *State of New Jersey v. U.S. Dep't of Transportation et al.*, No. 2:23-cv-03885**

Dear Judge Gordon:

I respectfully write on behalf of the State of New Jersey ("Plaintiff" or "New Jersey") in response to the Notice of Supplemental Authority filed by the Federal Highway Administration ("FHWA"). Dkt. 159. Your Honor is not bound by the decision in *Chan v. U.S. Dep't of Transp.*, No. 23-10365 and the consolidated cases, and the FHWA's notice misstates the holding in those cases. While the court denied the specific NEPA challenges raised by *Chan* and the other plaintiffs, the Court did not find that the Defendants complied with NEPA in issuing the Final EA and FONSI for *all* challenges, including those raised by New Jersey. While some of the legal doctrines may overlap, New Jersey has distinct arguments about the effects of the congestion pricing scheme on New Jersey, its environment, and its environmental justice communities, and the lack of mitigation to mitigate those adverse effects.<sup>1</sup>

Respectfully,

/s/ Randy M. Mastro

Randy M. Mastro

cc: All counsel of record (via ECF)

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<sup>1</sup> To the extent Your Honor would like a further explanation why this Supplemental Authority is not controlling here, New Jersey requests an opportunity to brief how the decision in that case is distinct from the issues raised in this case, or wrongly decided to the extent there is any overlap.